



PATENT
660057-2001

3762
BET
6.5.02
#10/10

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Michael Conor MINOGUE
Michael Louis CROWE

U.S. Appln. No. : 09/902,225

U.S. Filing Date : July 10, 2001

Title of Invention : AN ELECTROTHERAPY DEVICE AND
METHOD

745 Fifth Avenue
New York, NY 10151

TECHNOLOGY CENTER R370C

APR 18 2002

RECEIVED

I hereby certify that this correspondence is being deposited with
the United States Postal Service as first class mail in an envelope
addressed to: Asst. Commissioner of Patents and Trademarks
Washington, DC 20231, on April 9, 2002.

Gordon M. Kessler Reg. No. 38,511

Name of Applicant, Assignee or Registered Representative

Gordon Kessler
Signature

Date of Signature

**PETITION TO MAKE SPECIAL - INFRINGEMENT,
INFORMATION DISCLOSURE STATEMENT, AND
REQUEST FOR INTERVIEW PRIOR TO FIRST OFFICE ACTION**

Assistant Commissioner for Patents
Box PATENT APPLICATION (35 U.S.C. 111)
Washington, D.C. 20231
Sir:

INFORMATION DISCLOSURE STATEMENT

The Examiner's attention is respectfully directed to the documents cited in the
accompanying PTO 1449 (submitted in duplicate). A copy of each of these documents is
attached for the application file.

The Examiner is respectfully requested to consider and make of record the documents cited and return to the undersigned an initialed PTO 1449 showing that the documents have indeed been considered and made of record.

It is believed that no fee is due for entry of this Information Disclosure Statement as it is submitted prior to receipt of the first Office Action in this application. However, if any fee is required, the Assistant Commissioner is authorized to charge such fee, or credit any overpayment, against Deposit Account No. 50-0320.

PETITION TO MAKE SPECIAL - INFRINGEMENT

Pursuant to 37 C.F.R. §1.102 and MPEP §708.01 and § 708.02 (II) and any other Rules of the Commissioner and MPEP sections, Applicants respectfully petition to make this application special on the basis of infringement occurring by third parties. A check for \$130.00 in payment of the fee set forth in 37 C.F.R. §1.17(h) is enclosed; and, the Commissioner is hereby authorized to charge any additionally required fee for this petition or for making the application special or credit any overpayment in such fees to Deposit Account No. 50-0320.

The undersigned is an attorney registered to practice before the PTO, as required by MPEP §708.02.

A careful and thorough search of the prior art was made and the documents uncovered by that search are submitted herewith, as shown by the foregoing Information Disclosure Statement, as required by MPEP §708.02.

The present application claims a device for attaching electrodes to a subject for stimulating abdominal muscles by electrotherapy. According to one aspect, the invention provides an attachment means that may be in the form of a belt. The attachment means is provided with a main locating means designed to locate a central electrode and two secondary locating means designed to locate two side electrodes spaced apart from the central electrode. The attachment means also includes a receiving means for receiving a signal generating means, that may be in the form of an electrical pulse generator, and a selecting means for selecting which electrodes to apply electrical pulses from the signal generating means. See Claim 1. The present application also claims that electrodes may be selected in pairs such that electrical pulses are applied between the selected electrodes. See Claim 2. One selected pair of electrodes may be a pair of electrodes making up the central electrode. See Claim 9.

00052837

5/30/03
MB

Applicants' assignee, Bio-Medical Research, Ltd. ("BMR"), has become aware of a competitor in the United States – Electronic Products Distribution, LLC ("EPD") – selling a electrical muscle stimulator device under the name AB ENERGIZER, which is within the claims of the present invention. EPD sells the AB ENERGIZER in the United States through retailers that advertise on the world wide web. Attached as Exhibit A are pages from websites of a number of retailers offering the AB ENERGIZER for sale in the United States.

5/30/03
MB

Attached as Exhibit B is a copy of the Instruction Manual and Weight Loss Guide (the "Manual") provided along with the AB ENERGIZER. The AB ENERGIZER is an electronic muscle stimulation (EMS) device that "uses paired anatomically positioned electronic exercisers" to apply electrical pulses to stimulate abdominal muscles. Manual at 4. As shown at page 15 of the Manual, the AB ENERGIZER includes a belt that has attachment points for up to four "electronic energizer" units. The energizer units connect to the belt by snaps located on the outside surface of the belt. Id. at 15. The snaps are connected with electrodes located on the inner surface of the belt, and each energizer unit connects with two electrodes on the inner surface of the belt via the snaps. Id. at 9. The belt is positioned around the waist of the user so that the electrodes are positioned adjacent abdominal muscle groups. Id. at 10, ¶8. The energizer units are then switched on and the intensity level and pulse program of each unit is adjusted. Id. at 10-11, ¶¶ 9-12.

A rigid comparison of EPD's AB ENERGIZER with the claims of the application reveals that at least some of the claims are unquestionably infringed. As compared with claims 1 and 2, the AB ENERGIZER provides an attachment means, that is a belt. The belt includes locating means, that is, the electrodes fixed to positions on the inside surface of the belt. A total of eight electrodes (i.e., at least three electrodes) are located inside the belt. Id. at 9. These include two pairs of central electrodes and two pairs of two side electrodes. Id. at 9. When worn as instructed, the central electrodes are positioned along the center of the user's abdomen and the side electrodes are spaced apart from the central electrode toward the user's sides. Id. at 15. The belt includes receiving means (i.e., snaps) for attaching signal generating means (i.e., energizing units). Id. at 15. The energizing units are all individually selectable to apply pulses to selected pairs of electrodes. Id. at 10-11. As compared with claim 9, the AB ENERGIZER includes a pair of electrodes connected with an energizer unit attached to the center of the belt. Id. at 9 and

15. When a centrally located energizer unit is turned on, pulses are applied to the pair of electrodes located at the center of the belt. Id. at 10.

Accordingly, it is respectfully submitted that all of the requirements of MPEP §708.02 (II) have been met, namely the petition fee is enclosed herewith and this paper is a petition to make special and:

- (1) That there is an infringing product actually on the market or methods in use;
- (2) That a comparison of the alleged infringing product, or methods with the claims of the application has been made, and that, in the opinion of the undersigned, some of the claims of the application are unquestionably infringed; and
- (3) That there has been a careful and thorough search of the prior art (with a copy of the references therefrom supplied herewith).

It is respectfully submitted that BMR is suffering by not having a U.S. Patent corresponding to the present application. Until a U.S. Patent corresponding to the present application issues, BMR is without any remedy to prevent infringement; and, without a U.S. Patent corresponding to the present application, BMR is faced with lost sales and revenue due to competitive products and methods within at least one claim of the present application.

Therefore, it is respectfully submitted that the present application qualifies for special status; and, according the present application special status is respectfully requested.

REQUEST FOR INTERVIEW

In addition, if there is any issue that presents an impediment to first action allowance of the present application, an interview is respectfully requested prior to any first Office Action on the merits.

Thus, Applicants respectfully request an interview prior to any first Office Action; and, the Examiner is respectfully requested to contact the undersigned prior to issuing any first Office Action to arrange a mutually convenient time and manner for such an interview.

Any additionally required fee or overpayment in any fee occasioned by this paper may be charged or credited to Deposit Account No. 50-0320.

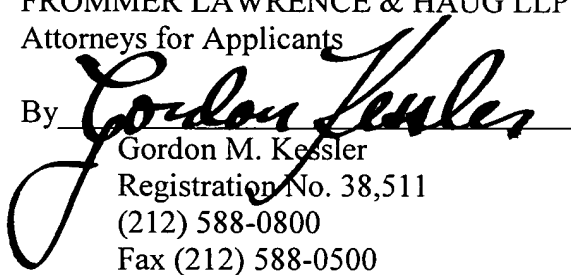
CONCLUSION

Early and favorable examination on the merits, special status, and first action allowance or an interview prior to any first Office Action (so any issues may be rapidly resolved), are all earnestly solicited.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By


Gordon M. Kessler

Registration No. 38,511

(212) 588-0800

Fax (212) 588-0500



#10

Exhibit A

RECEIVED
APR 18 2002
TECHNOLOGY CENTER R3700

ENERGIZE YOUR ABS

AS SEEN ON
TV
STORE

AB ENERGIZER™. The Most Complete AB System on the Market Today!

FREE REPLACEMENT BELTS

Depending on use the superior quality AB Energizer belt will eventually show wear from body oils, handling, exposure and other conditions. We will replace your AB Energizer belt FREE. Normally \$39.95

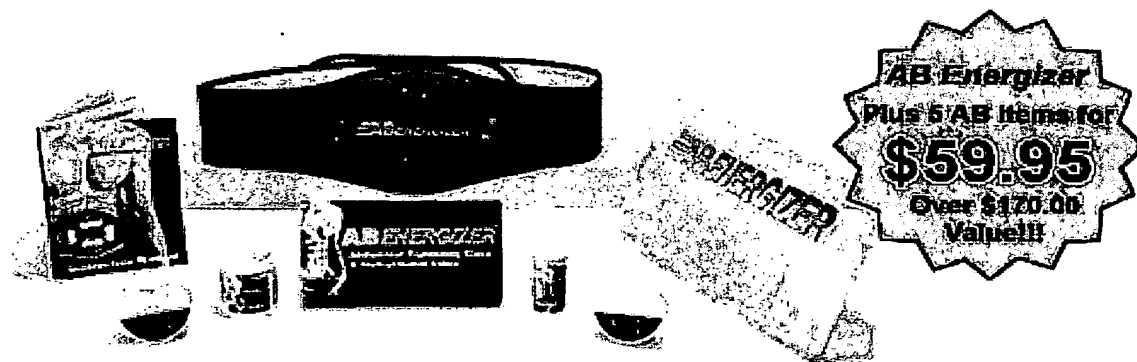
HOME

PRODUCT INFO

ORDER NOW!!

TESTIMONIALS

CONTACT US



**AB ENERGIZER IN STOCK ! WE DELIVER NOW ! DON'T WAIT FOR YOURS ORDER TODAY !
! AB ENERGIZER IN STOCK ! WE DELIVER NOW ! DON'T WAIT FOR YOURS ORDER TODAY !
! AB ENERGIZER IN STOCK ! WE DELIVER NOW ! DON'T WAIT FOR YOURS ORDER TODAY !
! AB ENERGIZER IN STOCK ! WE DELIVER NOW ! DON'T WAIT FOR YOURS ORDER TODAY !**

AB Energizer™ is the simplest, easiest, and most comfortable toning device ever. Say goodbye to strenuous, time-consuming workouts. With AB Energizer, your muscles are moving but you are not. AB Energizer™ lets you work out while watching TV, shopping, working or walking, anywhere, anytime.

Used properly, the AB Energizer™ will produce noticeable results in as little as 3-4 weeks. Like any exercise regimen, the AB Energizer™ Electronic Muscle Exercisers must be used in a consistent program at regular intervals. You will begin to notice a tightening and loss of flabbiness or softness in the muscle groups you've been working.

The Ab Energizer™ tones and tightens your upper, middle, and lower abs, love handles, buns and thighs - all with no sweat! Ab Energizer™ does not claim to burn fat away. The body burns fat when it is in an aerobic state. The rest of the system, Ab Energizer™ Dietary Supplement and Weight Loss Guide will help you achieve your weight loss goals!

Order your second ab energizer for \$49.95, a \$10 saving.

Quantity:

Add to Cart



**RELIABILITY
PROGRAM
BBBONLINE**

PAX.TV
WWW.PAX.TV

391-0909 . . . This is a secure order form . . .

Find and purchase the As-Seen-On-TV Products you are looking for. Most products can be ordered online or by calling a Toll-Free 800 Number. Enjoy your visit.



**God Bless
America**

[Home](#)

[Terms](#)

[Privacy](#)

[Contact Us](#)

To Order Call **1-(800) 391-0909** or [Order Online](#)



AB ENERGIZER

AB ENERGIZER ships in 4-6 weeks

Ab Energizer is the new electronic exerciser created to work your ab muscles, glutes, thighs and back through electronic stimulation giving you dramatic results in a short time. The secret is Ab Energizer's electronic impulses that stimulate your abs so they contract and relax as if you're doing a sit-up. Now you can get up to 700 muscle exercising contractions in just 10 minutes and get abs with the toned definition you've always dreamed of! The double unit Ab Energizer has 4 contact points to target multiple muscle groups for a more effective workout. Choose from 2 modes and 10 settings to firm and sculpt your muscles without breaking a sweat. 1/2 the price of an Abtronic (Ab Tronic)!!! Product includes: Ab Energizer Belt, 2 Power units, Tightening Gel, Carrying Case. **BONUS: 30 day supply of Diet Energizer Tablets**

WARNING: If you have a pacemaker, heart disorder, epilepsy, diabetes, multiple sclerosis, skin disorders, are recovering from an operation or you are pregnant, you **SHOULD NOT USE THESE MACHINES**. Pads should not be placed over scars, moles, varicose veins or sensitive parts of the body.

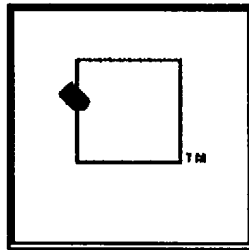
Only \$59.95 (NO DISCOVER CARDS PLEASE)
plus \$12.95 shipping and handling

AB ENERGIZER ships in 4-6 weeks

30 Day Money Back Guarantee! (less S&H)

To Order Call **1-(800) 391-0909**

or Order Online



Frequently Asked Questions

- Do you offer a guarantee?
 - What credit cards do you accept?
 - Is this the same one I saw on TV?
 - How secure is your ordering system?
 - How long will it take for me to receive my order?
 - Is 'Rush Shipping' Available?
 - How do I check the status of my order?
 - Is the Magazine Offer really Free?
-

[Home](#) | [Privacy Statement](#) | [Terms of Service](#)

Copyright © 2000-2001 Permission Interactive Inc.

Show Category Go

Home Page

Help

Information

Search For:

Max number of items to display:

☐ Search item names only

Search

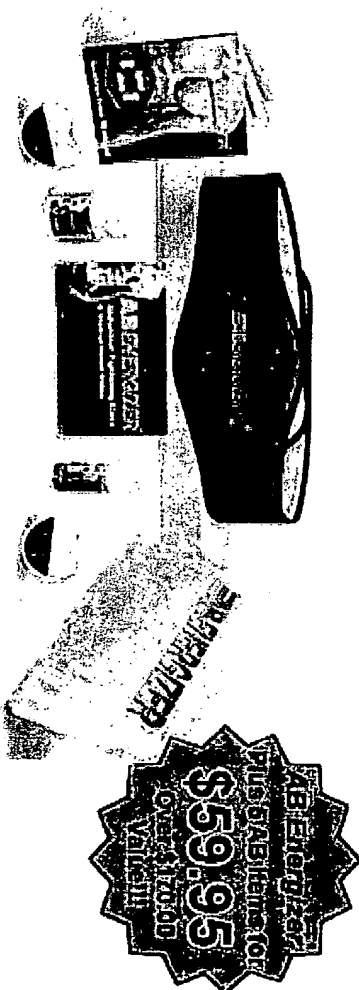
Review Order

Checkout

Order Number

check on order status or complete an unfinished order

Get Order



Code: 0016

AB ENERGIZER
\$ 59.95

AB ENERGIZER

FREE SHIPPING for a limited time!!!

Ab Energizer is the new electronic exerciser created to work your ab muscles, glutes, thighs and back through electronic stimulation giving you dramatic results in a short time. Get firm at without breaking a sweat! Product includes: Ab Energizer Belt, 2 Power units, Tightening Gel, Carrying Case. **BONUS:** 30 day supply of Diet Energizer Tablets

Easy To Use:

Simply wrap the Ab Energizer belt around your body and with the press of a button you're exercising. Each electronic exerciser offers 10 levels of intensity and exercise in 2 different program modes.

PROGRAM 1 - Body Toning
PROGRAM 2 - Body Sculpting

Quantity: (minimum 1) **Order**

EXPRESS CHECK OUT

Customer ID:

Order/Check Out

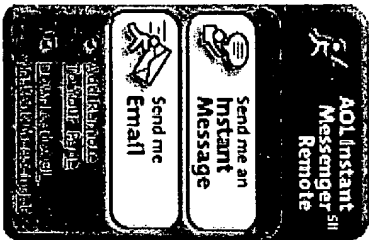
1-877-734-4822
Mon-Fri 9-7
For Ordering Only

Free Email Account
!!!

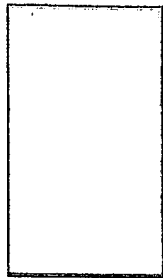
Customer
Service



Talk Live to a
Customer Service
Rep.
Mon-Fri 9 A.M. to 5
P.M. On AOL
Instant Message
below!



If you already have a customer ID and you are done shopping simply enter your customer ID here and you will taken to the checkout page with your customer information already entered



We Accept All
Major
Credit Cards!



CheckOut™ Internet Shopping System Version 3.0 ©1998, 1999 Adgrafix Corporation



SeenOnTV.com

If You've Seen It! We've Got It!

Online SuperStore

Shopping Cart View Cart Empty Cart Checkout

Click Here to Email

Customer Service
866-277-3366

[HOME](#)
[Kitchen](#)
[Gifts & Novelties](#)
[Electronics](#)
[Auto](#)
[Fitness](#)
[Household](#)
[Personal Care](#)
[Audio Video](#)
[Assorted](#)

HOME

Kitchen

Gifts & Novelties

Electronics

Auto

Fitness

Household

Personal Care

Audio Video

Assorted

FITNESS

NEW Arrivals!
Check 'em Out!

Customer Service

Product Request

Ordering Info

Guestbook

About Us

Community News

FITNESS PRODUCTS A-Z

- Abenergizer
- AB Force
- AB Slide
- AB Twister
- AB-DQer
- ABFLEX
- The AbTronics™ Ab Exerciser
- Beautiful U
- Billy Blanks Tae-Bo
- Bioslim Refill
- Bioslim Weight Loss System
- Body By Jake Ab Rocker
- Body by Jake Bun and Thigh Rocker
- Bubble Spa Bath Mat
- Euroassage Pro
- ExerFlex
- Free Vibratouch with any purchase
- Body Vibes
- Hollywood Celebrity Diet
- IGIA Electro-Sage B
- IGIA-Electro-Fit
- IGIA-Electro-Fit Accussage
- Jet Spa by Homedics
- Orbitrek
- Q-ray Ionized Bracelet, Deluxe Combo
- Q-Ray Ionized Bracelet, Deluxe Gold
- Q-Ray Ionized Bracelet, Deluxe Natural
- Q-Ray Ionized

Ab Energizer

Our Price: \$59.95

TV Price: \$150.00
plus \$9.95 S&H

Related Products

☐ Hollywood Celebrity Diet
Price: \$19.95



Ab Energizer

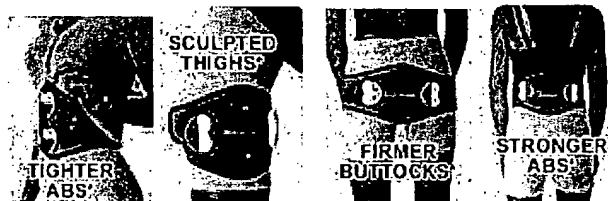
Ab Energizer -The First Multi-Electronic Massaging Belt

Ab Energizer will get you ENERGIZED

Easy To Use

Simply wrap the Ab Energizer belt around your body and with the press of a button you're exercising.

Massage



Even the mildest contraction, lasting only THREE TENTHS of a SECOND, is possible with the Ab Energizer.

The First Multi-Electronic Exercise Belt

Each electronic exerciser offers 10 levels of intensity and exercise in 2 different program modes.

- AbTronics™ Ab Exerciser
- AsSeenOnTVPC AMD Athlon XP 1700+
- Body by Jake Bun and Thigh Rocker
- Cell Phone Internal Antenna
- EpiL Stop and Tan Plus
- Gas Scooter - The Cobra
- Hollywood Celebrity Diet
- IGIA Finally White PRO
- IGIA X-Press Iron
- No Hands Universal Hands Free Kit
- Steam Bullet
- Tony Little's Gazelle Freestyle
- Pro Trim Self Masking Paint Roller
- Wrap Snap & Go! Curling System
- AB Force
- AeroBed (Twin Size)
- Cell Phone Wave Scrambler
- Aston Super Wrench Kit
- ENDURO BITS

Online
Order Status &
Package Tracking

Order Number:

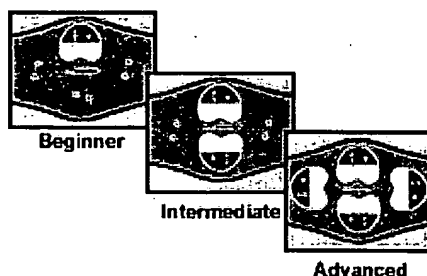
Last Name:
(case sensitive)

Submit

Enter in your
SeenOnTV.com order
number and your last
name.

Your order will show up
with an order status. Cl
on the tracking ID to tra
your package

- bracelet, natural
- Q-Ray Ionized Bracelet, Standard Gold
- Q-Ray Ionized Bracelet, Standard Silver
- Silver Bomber Electric Scooter
- Straight Shootin Golf For Life
- Tony Little's Gazelle Freestyle
- TONY LITTLES TARGET TRAINING 2000
- Torso Tiger
- Total gym 1500
- Total Tiger
- Win Gym



* These Statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease

\$150 VALUE
Yours For \$59.95
Includes 5 FREE AB Items

AS SEEN ON TV

FREE
 Second Electronic Exercising Unit


Save \$29.95

FREE
 AB Energizer™ Tightening Gel


Save \$19.95

FREE
 AB Energizer™ Dietary Supplement


Save \$29.95

FREE
 Carrying Case


Save \$9.95

FREE
 Abdominal Tightening & Instructional Video


Save \$9.95

FREE
 Instructional and Weight Loss Guide


Save \$9.95

YOURS FOR \$59.95
CLICK HERE TO ORDER NOW



\$150.00 VALUE
The Most Complete Ab System

- ▲ AB ENERGIZER BELT
- ▲ INSTRUCTIONAL AND WEIGHT LOSS GUIDE
- ▲ INSTRUCTIONAL VIDEO
- ▲ 2 ELECTRONIC EXERCISING UNITS
- ▲ AB ENERGIZER TIGHTENING GEL
- ▲ CARRYING CASE
- ▲ AB ENERGIZER DIETARY SUPPLEMENT

\$150.00 VALUE

your package:

Summer Specials
BIG Savings!



Epi Stop and Tan Plus



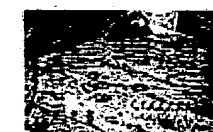
Gateway 667 MHz Celeron Computer \$599



AsSeenOnTVPC AMD Athlon XP 1700+ \$1499



Aston Super Wrench Kit



BANJO FISHING SYSTEM

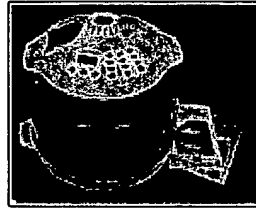


Bubble Spa Ultra

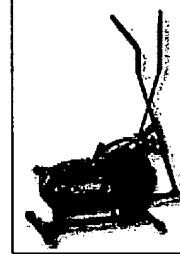
Here Are Some Other Great Products You Might Like!



**Bubble Spa Bath Mat w/
Remote**



FlavorWave Oven



Orbitrek



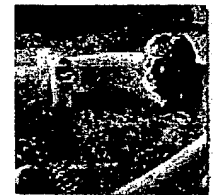
**Cell Phone Internal
Antenna**



Contour Leg Pillow



ENDURO BITS

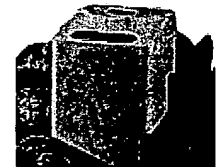


Jet Spa by Homedics

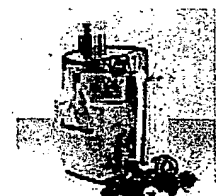


[Home](#) | [Kitchen](#) | [Gifts,Novelties](#) | [Electronics,Auto](#) | [Fitness](#) | [Household](#) | [Personal](#) |
[Audio,Video](#) | [Assorted](#) | [Customer Service](#) | [About Us](#) | [Become An Affiliate](#)

Copyright © 1998-2001 Seen On TV



Original Breadman



Original Juiceman II



**Barbecue Food
Thermometer**



Citrus Express



Find and purchase the As-Seen-On-TV Products you are looking for.
Most products can be ordered online or by calling a Toll-Free 800
Number. Enjoy your visit.

[Home](#)
[Terms](#)
[Privacy](#)
[Contact Us](#)


AB ENERGIZER

AB ENERGIZER ships in 4-6 weeks

Ab Energizer is the new electronic exerciser created to work your ab muscles, glutes, thighs and back through electronic stimulation giving you dramatic results in a short time. The secret is Ab Energizer's electronic impulses that stimulate your abs so they contract and relax as if you're doing a sit-up. Now you can get up to 700 muscle exercising contractions in just 10 minutes and get abs with the toned definition you've always dreamed of! The double unit Ab Energizer has 4 contact points to target multiple muscle groups for a more effective workout. Choose from 2 modes and 10 settings to firm and sculpt your muscles without breaking a sweat. 1/2 the price of an Abtronic (Ab Tronic)!!! Product includes: Ab Energizer Belt, 2 Power units, Tightening Gel, Carrying Case. BONUS: 30 day supply of Diet Energizer Tablets

WARNING: If you have a pacemaker, heart disorder, epilepsy, diabetes, multiple sclerosis, skin disorders, are recovering from an operation or you are pregnant, you **SHOULD NOT USE THESE MACHINES**. Pads should not be placed over scars, moles, varicose veins or sensitive parts of the body.

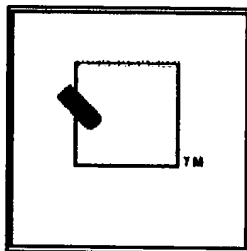
Only \$59.95 (NO DISCOVER CARDS PLEASE)

plus \$12.95 shipping and handling

AB ENERGIZER ships in 4-6 weeks

30 Day Money Back Guarantee! (less S&H)

Order Online



Frequently Asked Questions

- Do you offer a guarantee?
 - What credit cards do you accept?
 - Is this the same one I saw on TV?
 - How secure is your ordering system?
 - How long will it take for me to receive my order?
 - Is 'Rush Shipping' Available?
 - How do I check the status of my order?
 - Is the Magazine Offer really Free?
-

[Home](#) | [Privacy Statement](#) | [Terms of Service](#)

Copyright © 2000-2001 Permission Interactive Inc.